

DO EDUCATIONAL TV RESERVATIONS END ON JUNE 2, 1953?

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There exists considerable confusion as to what the so-called June 2 deadline for educational television means. Some believe that on June 2 of this year all reservations of TV channels automatically expire. Therefore, they urge immediate activation of channels lest they be lost forever to education. Others express the point of view that there is no time limit on the educational reservations and that educators need not be rushed in their plans to utilize the channels. Much of this confusion can be eliminated if reference is made to a few basic facts.

As will be recalled, the Federal Communications Commission held an extensive hearing on the question whether television channels should be reserved for the exclusive use of education. A total of 76 witnesses testified on this issue. All but five favored the reservations. Those favoring them presented evidence showing the need for educational television; how this new medium could provide new opportunities for formal and informal education and how educators generally would need more time to make plans to build stations. Those opposing the principle of reserving channels for educational purposes contended that the record did not show that educational organizations would, in fact, require a longer period of time than commercial broadcasters; that reservations would result in a waste of valuable frequency space because of nonusage and limited audience appeal of educational stations.

The Commission rejected these latter arguments and concluded, as set forth in paragraph 38 of the Sixth Report and Order, that the record clearly showed the desire and ability of the educational community to construct and operate educational stations; and that the public interest would be served if these stations were used to contribute to the educational process of the nation. The Commission further concluded that the principle of reservation was sound and fully justified by the evidence of record. The basis for this conclusion is fully revealed in the following references to the exact language of the Commission in the Sixth Report and Order.

In paragraph 36 of the Report the Commission said that, "...because educational institutions require more time to prepare for television than commercial interests, a reservation of channels is necessary to insure that such stations come into existence..."

Again, in paragraph 39, the Commission refers to the need of educational organizations for more time: "....In preparing a proposed Assignment Table for the entire nation which would provide the framework for the growth of television for many years to come, we could not limit our perspective to immediate demand for educational stations under circumstances where all communities did not have an opportunity to give full consideration to the possibilities of television for educational purposes and to mobilize their resources."

In paragraph 41 the following language appears: "The great preponderance of evidence presented to the Commission has been to the effect that the actual process of formulating plans and of enacting necessary legislation or of making adequate financing available is one which will generally require more time for educational organizations than for commercial interests. The record does, of course, show that there are some educational institutions which are now ready to apply for television broadcasting licenses, but this in no wise detracts from the unavoidable conclusion that the great mass of educational institutions must move more slowly and overcome hurdles not present for commercial broadcasters, and that to insure an extensive, rather than a sparse and haphazard development of educational television, channels must be reserved by the Commission at this time. There is, moreover, abundant testimony in the record that the very fact of reserving channels would speed the development of educational television. It was pointed out that it is much easier for those seeking to construct educational television stations to raise funds and get other necessary support if the channels are definitely available. than if it is problematical whether a channel may be procured at all."

The fact that educational institutions need more time to prepare than do commercial broadcasters is further explained in paragraph 43 which reads as follows: "We do not believe that in order to support our decision to reserve channels for noncommercial educational stations it is necessary that we be able to find on the basis of the record before us, in the general phase of the hearing, that the educational community of the United States has demonstrated either collectively or individually that it is financially qualified at this time to operate television stations. One of the reasons for having the reservation is that the Commission recognizes that it is of the utmost importance to this nation that a reasonable opportunity be afforded educational institutions to use television as a noncommercial educational medium, and that at the same time it will generally take the educational community longer to prepare for the operation of its own television stations than it would for some commercial broadcasters. This approach is exactly the same as that underlying the Assignment Table as a whole, since reservations of commercial channels have been made in many smaller communities to insure that they not be foreclosed from every having television stations."

There is nothing in the foregoing language or in any other part of the Sixth Report and Order which indicates that the Commission has put a time limit on the reservations of channels for educational television stations. There is no language which says the reservations end on June 2, or any other specific date. However, the Commission has set up procedures by which the whole television Assignment Table, including educational assignments may be amended and it is important that educational organizations understand clearly this procedure and the comments of the Commission regarding it as set forth in the Report.

During the hearings the question was raised as to when the Commission should consider proposed changes in the Assignment Table. On the basis of the record the Commission in its Third Report proposing

to set up an Assignment Table for educational television stated:
"Upon adoption in the instant proceedings of the Table of Assignments, said table shall not be subject to amendment on petition for a period of one year from the effective date of the Commission's final order amending said table. Upon the expiration of said one year period the Commission will consider petitions filed during said period requesting changes in the table."

In paragraph 209 of the Sixth Report and Order which made final the adoption of an Assignment Table, the Commission quoted this language with further approval.

In paragraph 210 the Commission says that this provision will serve a two-fold purpose, namely, give the Commission's personnel time to process hundreds of new applications for television stations and give the Commission experience "in the ensuing year in the consideration and processing of applications for new stations," which will be extremely valuable in the re-evaluation and reconsideration of the Table of Assignments and in the disposition of such petitions requesting the amendment of the Table after the year has expired.

In paragraph 211, however, the Commission did make some exceptions to the above stated rule saying that "during the one year period it would accept petitions to amend the Table where they request the assignment of a channel, commercial or non-commercial, in any community to which no assignment had been made in the Table." It should be noted, however, that the Commission says in the same paragraph that it will not accept any petition within the one year period where the petition proposes a change in any other existing channel and where the minimum assignment separation provided in the rules would not be adhered to by the proposed assignment.

What this means, therefore, with respect to educational assignments is that the Commission will not entertain any petitions for a year after the effective date of the Sixth Report and Order which would propose to change an educational channel to a commercial one. After the expiration of the one year which will be June 2, 1953, the Commission will, under the rules entertain such petitions. If and when these petitions are filed, they will be considered by the Commission in rule making proceedings as provided in paragraphs 201, 202, 203 and 204 of the Sixth Report and Order. As pointed out in paragraph 205 each request for a change in the Table including proposals to change educational assignments to commercial ones will be required to set out with clarity the reasons for the proposed changes. There will then be a 30-day period allowing members of the public to file comments with the Commission regarding the proposed change. After these comments are filed the Commission will then decide whether to grant or deny the petitions, basing its decisions upon the record established in each rule making proceeding. If in any particular case or cases these petitions are denied, the educational reservations remain exactly as they are at present - that is, exclusively reserved for educational organizations. If, on the other hand, the petitions are granted, public notice thereof will be made and the particular educational channels involved will no longer be reserved for education but will be

available to all qualified applicants, both commercial and educational.

It should be pointed out that the existing commercial assignments may be changed after June 2 by the same rule making procedure and, therefore, petitions requesting that commercial assignments be reserved exclusively for education could be filed.

The Commission has indicated clearly its concern that educational assignments be used as early as possible and has made it clear that it will review its action on reserving channels from time to time. For example, in paragraph 36 of the Commission's Report it states, "that such reservations should not be for an excessively long period and should be surveyed from time to time." Again in paragraph 42 the Commission answers the argument that it would be a waste of spectrum space to reserve channels for education because of possible nonuse by pointing out that "the whole of the Table of Assignments including the reservation of channels for use by noncommercial educational stations is subject to alteration in appropriate rule making proceedings in the future, and any assignment, whether an educational reservation or not, may be modified if it appears in the public interest to do so."

Particular attention is called to the last paragraph of Commissioner Webster's concurring opinion to the Sixth Report and Order which reads as follows: "One of the considerations which enables me to accept the reservation of channels is the fact that, in the event the educators fail in their efforts, the Commission, at any time it considers it in the public interest to do so, can reconsider its decision in this connection and, through rule making proceedings, assign idle educational channels for commercial purposes, and possibly promulgate rules requiring other than noncommercial educational stations to provide adequate educational programs. Moreover, after a period of one year from the date on which the Table of Assignments is made final, any interested party is at liberty to petition the Commission for rule making proceedings looking toward the commercialization of any or all educational channels lying fallow at that time. Accordingly, in view of the observations set out above, and on the basis of the entire record, I believe it is in the public interest to reserve the channels for non-commercial educational television stations specified in this report and order."

In summary, no specific time limit on educational TV reservations has been set. The Commission has clearly stated that educational groups generally require more time than commercial interests to plan for and establish television stations. The Commission has indicated a disposition to be reasonable in this regard but at the same time expresses a concern that valuable spectrum space not be wasted. It seems to me that the conclusion to be drawn from all of this is that, while after June 2 petitions to delete educational reservations may be filed, on the basis of the Sixth Report and Order it is not expected that the Commission will look with favor upon such petitions providing the communities where educational channels are challenged are able to present real evidence of reasonable progress toward using the channels. The best protection of a channel obviously is, therefore, a good application on file with the Federal Communications Commission. Short of this, the best evidence is a showing that the community has an interest and has taken constructive steps toward the filing of an application.

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